

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FILED
CLERK'S OFFICE

CIVIL ACTION NO. 04-30054-MAR
2005 DEC -5 P 12:10

DEBORAH ST. PETER and
MATTHEW BOGACZ,
Plaintiffs

vs.

TOWN OF AGAWAM, TOWN OF AGAWAM
POLICE DEPT., AGAWAM POLICE CHIEF
ROBERT CAMPBELL, ANTHONY GRASSO,
JAMES WHEELER, RICHARD NILES,
KEITH BOPKO, JOHN MOCCIO,
OFFICER MCGOVERN,
Defendants

U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DEFENDANTS' MOTION FOR PROTECTIVE ORDER FROM DEPOSITION DATES

The defendants in the above matter respectfully move this Court for a protective order from deposition dates set in deposition notices forwarded to defendants' counsel, the undersigned, by letter from plaintiffs' counsel on November 22, 2005 (see the attached November 22, 2005 letter). This matter was mediated unsuccessfully on November 21, 2005 before Attorney David Burbank. Thereafter, the following day, plaintiffs' counsel forwarded the attached letter and deposition notices to defendants Anthony Grasso, James Wheeler, Richard Niles, Officer McGovern, Witness Detective Jennifer Blanchette, and defendant Chief Robert Campbell. The next day, the undersigned sent on November 23 the attached letter to Attorney McDonald explaining that he would not be able to do those depositions during the month of December, as his calendar was full. The November 23 letter described scheduled trials in Housing Court, Berkshire County Superior Court, and the U.S. District Court for the month of December. It asked that the parties mutually work out dates to have the depositions completed in January 2006.

Apparently not agreeable to the depositions being scheduled for January, plaintiffs' counsel forwarded the attached November 28, 2005 letter, indicating that she would not postpone the depositions as scheduled.

Counsel for the defendants always attempts to accommodate other counsel with regard to discovery and depositions. It has never been the undersigned's desire to unduly delay or postpone discovery. However, he is currently scheduled to begin a trial in the United States District Court before Judge Ponsor this coming Monday, December 12. The Housing Court trial referred to in his correspondence has been dismissed and will not go forward this morning, December 5. He is on the trial list for a Superior Court case in Berkshire County Superior Court for the month of December. He is on call for two trials in the Hampshire County Superior Court for the month of December. Taking into account all of those trials for which he must prepare and prepare clients and witnesses, and taking into account other scheduling matters and the upcoming holidays, it is respectfully requested that he not be required to go forward with the depositions that plaintiffs' counsel **unilaterally** scheduled. The undersigned has already contacted the various defendants in the Agawam Police Department and is obtaining the various dates upon which they would and would not be available for depositions in the month of January.

For all of the above reasons, it is respectfully requested that the defendants be protected from depositions during the month of December and that counsel in this case be allowed to work out mutually agreeable dates for depositions in the month of January.

REQUEST FOR HEARING


To the extent the Court deems necessary, it is respectfully requested that the defendants have the opportunity to present oral argument on this motion.

CERTIFICATE OF CONSULTATION

Pursuant to Local Rule 7.1 (A) (2), the undersigned and moving parties assert that they have conferred with plaintiffs' counsel by the enclosed and attached correspondence in a good faith

attempt to resolve or narrow the issue as to the scheduling of the referenced depositions, and the attached correspondence make it clear that attempt was unsuccessful.

RESPECTFULLY SUBMITTED
THE DEFENDANTS
TOWN OF AGAWAM, TOWN OF
AGAWAM POLICE DEPT., AGAWAM
POLICE CHIEF ROBERT CAMPBELL,
ANTHONY GRASSO, JAMES
WHEELER, RICHARD NILES,
KEITH BOPKO, JOHN MOCCIO,
OFFICER MCGOVERN

By 
Jeffrey L. McCormick, Esq.
Robinson Donovan, P.C.
1500 Main Street, Suite 1600
Springfield, Massachusetts 01115
Phone (413) 732-2301 Fax (413) 785-4658
BBO No. 329740

CERTIFICATE OF SERVICE

I, Jeffrey L. McCormick, Esq., hereby certify that on this 5th day of December, 2005, I served a copy of the above upon the parties in the action by hand delivery and by mailing, postage prepaid, to counsel, Dawn D. McDonald, Esq., Cooley Shrair, P.C., 1380 Main Street, Springfield, MA 01103.

Subscribed under the penalties of perjury.


Jeffrey L. McCormick

LAW OFFICES

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DAWN D. McDONALD*

*ALSO ADMITTED IN CONNECTICUT

FILE NO. 24334.1

November 22, 2005

Mr. Jeffrey McCormick, Esq.
Robinson, Donovan, Madden & Barry
1500 Main Street
Box 15609
Springfield, MA 01115

RE: Deborah St. Peter and Matthew Bogacz v. Agawam Police Department, et al.
Civil Action No. 04-30054-MAP

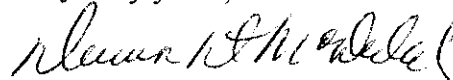
Dear Attorney McCormick:

Enclosed please find Deposition Notices relative to the above-referenced matter. They are as follows:

1.	Anthony Grasso	December 15, 2005	9:00 a.m.
2.	James Wheeler	December 15, 2005	1:30 p.m.
3.	Richard Niles	December 16, 2005	9:00 a.m.
4.	Officer McGovern	December 16, 2005	1:30 p.m.
5.	Detective Jennifer Blanchette	December 19, 2005	9:00 a.m.
6.	Chief Robert Campbell	December 19, 2005	1:30 p.m.

Thank you for your attention to this matter.

Very truly yours,



Dawn D. McDonald

DDM/mdb
cc. Deborah St. Peter
Matthew Bogacz